

**MCWHIRTER REEVES**  
ATTORNEYS AT LAW

TAMPA OFFICE:  
400 NORTH TAMPA STREET, SUITE 2450  
TAMPA, FLORIDA 33602  
P. O. BOX 3350 TAMPA, FL 33601-3350  
(813) 224-0866 (813) 221-1854 FAX

PLEASE REPLY TO:

TALLAHASSEE

TALLAHASSEE OFFICE:  
117 SOUTH GADSDEN  
TALLAHASSEE, FLORIDA 32301  
(850) 222-2525  
(850) 222-5606 FAX

November 13, 2000

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Federal Communications Commission  
Office of the Secretary  
1919 M Street, N.W.  
Washington, D.C. 20554

Re: CC Docket Nos. 98-147 and 96-98

Dear Madam/Sir:

On behalf of Network Telephone Corporation, I am enclosing for filing and distribution the original and 9 copies of the Reply Comments of Network Telephone Corporation in the above Dockets.

Thank you for your assistance.

Yours truly,

*Joe A. McGlothlin*

Joseph A. McGlothlin

JAM/kmr  
Enclosures

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**Before the  
Federal Communications Commission  
Washington, D.C. 20554**

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In the Matters of

Deployment of Wireline Services Offering  
Advanced Telecommunications Capability

CC Docket No. 98-147

and

Implementation of the Local Competition  
Provisions of the  
Telecommunications Act of 1996

CC Docket No. 96-98

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**REPLY COMMENTS OF NETWORK TELEPHONE CORPORATION**

**I. INTRODUCTION**

Network Telephone Corporation ("Network Telephone"), a competitive local exchange company, is currently deploying a state-of-the art, ATM-based network throughout nine southeastern states. Network Telephone intends to offer advanced services at affordable prices in markets that include smaller Tier 2 and Tier 3 cities. The centerpiece of Network Telephone's network is an integrated, multi-function access server which also functions as a digital subscriber line access multiplexer, an IP gateway, a router, and a class 5 switch. In Florida, one ILEC has cited the decision of the United States Court of Appeal for the D.C. Circuit from GTE Service Corporation v. FCC, 205 F.3d 416 (D.C. Cir., 2000) as a basis for denying twelve applications by Network Telephone to collocate the integrated components of the access server in the ILEC's central offices.

In its initial comments, Network Telephone responded to the Commission's invitation to comment regarding whether Section 251(c)(6) of the 1996 Act permits it to allow collocation of

multi-functional equipment. In these Reply Comments, Network Telephone will comment briefly on the related assertions by ILECs in their direct comments.

Some (but not all) of the ILECs urge the Commission to take an extremely narrow view of the scope of Section 251(c)(6). For instance, BellSouth and Verizon argue that only items that are "indispensable" to interconnection and access may be collocated. Verizon adds that collocation must be offered only when the CLEC has no reasonable alternative. Verizon, at 1. This extreme interpretation flies in the face of the structure of the 1996 Act and the legislative intent underlying the Act.

## **II. STRUCTURE OF THE ACT**

As was developed in Network Telephone's initial Comments, section 251(c)(6) structurally is a part of the larger provision governing interconnection and access. In sections 251(c)(2) and 251(c)(3) Congress imposed on ILECs the obligation to provide interconnection at any technically feasible point within the carrier's network, and nondiscriminatory access to unbundled network elements. The Commission has recognized the broad nature of these requirements. Collocation is a means of achieving the broad interconnection rights and the nondiscriminatory access to elements mandated by these sections. The extreme interpretation that Verizon and others urge must be rejected because it would have the effect of nullifying the broad obligations encompassed in sections 251(c)(2) and 251(c)(3).

## **III. INTENT TO PROMOTE COMPETITION**

The ILECs attempt to invoke the Court's decision in support of their narrow view. The

argument overlooks the fact that the Court did not limit collocation to equipment that is "indispensable" to achieve interconnection and access. Id at 421. In fact, the court indicated it would accept a broader standard, if properly supported. Id at 424. Moreover, the competitive disadvantage that such an interpretation would impose on CLECs renders it incompatible with the intent of the Act, as recognized by the Court. The Court acknowledged that the legislative intent underlying the Act is the desire of Congress to foster competition in areas of advanced telecommunications services. (Id at 424). The narrow interpretation of section 251(c)(6) espoused by Verizon and BellSouth would thwart the development of competition by awarding ILECs a significant competitive edge. Technological advances are leading to increased efficiency and lower costs. Such efficiencies will be essential—in fact, indispensable—to the effort to provide advanced services on a competitive basis in smaller markets. Some of the efficiencies are achieved through the integration of multiple functions within a single piece of equipment.<sup>1</sup> There is no limitation on the extent to which ILECs may avail themselves of these advances. Given the clear pro-competitive thrust of the Act, to assert that Congress intended that ILECs may benefit from advancements in technology but CLECs cannot, is to argue-- impermissibly, under rules of statutory construction-- for an absurd result. Instead, the intent to foster competition illuminates the meaning of "necessary", as that term relates to section 251(c)(6) and its interplay with sections 251(c)(2) and 251(c)(3).

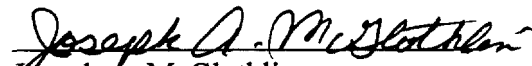
Taking Congress' intent to promote competition for advanced services into account, the term "necessary" has an additional meaning when applied to integrated, multifunctional equipment. If

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<sup>1</sup>The technologically advanced integration can result in equipment that is physically more compact than that which ILECs would allow to be collocated—rendering the "takings" argument particularly weak.

a piece of equipment--such as the integrated access server being deployed by Network Telephone--contains the means of interconnecting and/or accessing elements and additional functionalities--and if the equipment is designed and configured in a way that prevents the CLEC from separating or segregating those functionalities-- then the entire piece of equipment is "necessary" for the purpose of interconnection and/or access, within the meaning of section 251(c)(6). This is so, for the simple reason that interconnection/access is not technically viable without collocating the component in its entirety, and Congress did not intend to dictate the direction of technological changes, or deny to competitive providers the benefits of efficient, technologically advanced equipment.

Respectfully submitted,



Joseph A. McGlothlin  
McWhirter, Reeves, McGlothlin,  
Davidson, Decker, Kaufman,  
Arnold & Steen, P.A.  
117 South Gadsden Street  
Tallahassee, Florida 32301  
Telephone: (850) 222-2525  
Telecopy: (850) 222-5606

Attorneys for Network Telephone  
Corporation